IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.5284 of 2005

The State of Maharashtra Applicant
Vs.
Haroonrashid Khatlwali Desai & anr. Respondents

Mr.S.R.Shinde, APP for State.

CORAM: B.H.MARLAPALLE, J.

September 24, 2007.

P.C.

. Heard Mr.Adsule, the learned APP. This is an application seeking leave to appeal under Section 378(3) of Cr.P.C. against the order of acquittal passed by the learned Judicial Magistrate, First Class at Shirala on 5/1/2005 in Regular Criminal Case No.103 of 2000. As per the prosecution case the accused no.1 had committed an offence punishable under Sections 3, 7 and 9 of the Essential Commodities Act, 1955, Section 31 of the Representation of People Act, 1950 and Section 199 of IPC by incorporating the name of accused no.2 in the ration card issued in his favour.

. The persecution examined in all five witnesses. PW 1 - Vijay Laxman Pawar, API, PW 2 - Prasad Narhar Zende, Sweeper of Shirala Court, PW 3 -

Dagdu Durgappa Pawar, Supply Awwal Karkun, PW 4 - Dilip Narasu Ghadage, Ration shop owner and PW 5 - Dinesh Manohar Katake, I.O. In the testimony of PW 3 - the Supply Awwal Karkun the original ration card issued in favour of accused no.1 is not brought on record and same was the case in respect of the application allegedly submitted by the accused no.1. As per PW 3 it was his predecessor Shri P.P. Dubal who had issued the ration card in favour of the accused no.1 and it was alleged that during the period from 16/1/1991 to 10/6/1999 the accused no.1 made a false declaration about the citizenship of accused no.2 - Shahida and obtained the ration card. The prosecution did not examine the earlier Awwal Karkun Shri P.P. Dubal. Attested copy of the ration card at Exhibit 82 showed that it was in favour of the accused no.1. However, the letter written by the Tahsildar at Shirala at Exhibit 81 dated 1/6/1999 went to show that the ration card was issued in favour of the accused no.1 and the name of the accused no.2 was entered in the said card. The prosecution had placed on record the extract of attested true copy of the ration card at Exhibits 82 and 83 and both these documents were found to be illegible. PW 1 stated that accused no.2 is a

Pakistani national and nevertheless the accused no.1 entered her name in Electoral Roll at Shirala State Assembly Constituency. There was no evidence on record placed before the trial Court that it was the accused no.1 who made an application to enter the name of accused no.2 in the ration card and the same was allowed.

. Hence the reasoning set out by the trial Court in support of the order of acquittal does not call for reconsideration at the hands of this Court. In the result, leave to appeal is refused and the application is rejected.

(B.H.MARL